

GREGORIO CASTILLO, PETITIONER, VS. COURT OF APPEALS AND ALBERTO IGNACIO, RESPONDENTS.*G.R. No. 98028. January 27, 1992*

Ponente: GUTIERREZ, JR., J.

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This is a petition for review of the Court of Appeals decision which reversed and set aside the decision of the Regional Trial Court in Civil Case No. 8302-M and declared respondent Alberto Ignacio as agricultural tenant of the petitioner.

On July 18, 1985, a complaint for injunction was filed by private respondent Alberto Ignacio against petitioner Gregorio Castillo with the Regional Trial Court of Malolos, Bulacan.

It is alleged in the complaint that the respondent is the agricultural tenant of the petitioner in the latter's parcel of land consisting of 9,920 square meters with fruit-bearing trees situated in Cut-cut, Pulilan, Bulacan; that sometime in April 1985, the petitioner requested the respondent to allow him to construct a resthouse in said land, and as a token of goodwill, the respondent agreed, which agreement is embodied in a "Kasunduan" (Exhibit "C") between them; that in violation of said agreement, the petitioner started to cut fruit-bearing trees on the land in question and filled with adobe stones the area devoted by the private respondent to the planting of vegetables.

The complaint asked for the issuance of a writ of preliminary injunction to enjoin the petitioner from further cutting fruit-bearing trees and from committing further acts of dispossession against the private respondent. The injunction was granted.

The petitioner, on the other hand, contends that the private respondent is not his agricultural tenant; that respondent Alberto Ignacio is merely a "magsisiga" (smudger) of the landholding in question; that he did not ask permission from the private respondent to construct a rest house on subject land, since as owner thereof, he had the right to do so; that he was merely exercising his right of ownership when he cut certain trees in the subject premises; that when the barangay captain failed to settle the conflict and the matter was referred to the MAR-BALA (Ministry of Agrarian Reform - Bureau of Agrarian Legal Assistance) Office in Malolos, Bulacan, Atty. Benjamin Yambao of the MAR (Ministry of Agrarian Reform) prepared the "Kasunduan" attached to the respondent's complaint, but when he (petitioner) said that he had some misgivings about some words therein, Atty. Yambao assured him that he need not worry because the respondent could not be a "kasamang magsasaka" of his mango land because there is nothing to cultivate or till in said land, but he still corrected the last part of par. 4 of said "Kasunduan" by making it read "sa kanilang matiwasay na kaugnayan" before signing the same.

On September 28, 1988, the trial court rendered judgment declaring that no tenancy relationship exists between the petitioner and the private respondent. The dispositive portion of the decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered:

- dismissing the above-entitled case, with costs against the plaintiff;

- lifting the preliminary injunction issued on September 18, 1985 and declaring the same legally inefficacious henceforth; and
- directing the plaintiff to pay unto the defendant the amount of P10,000.00 as and for attorney's fees."

From the above decision, the private respondent appealed to the Court of Appeals which reversed and set aside the decision of the trial court. The respondent appellate court declared that there exists a tenancy relationship between Alberto Ignacio and Gregorio Castillo and permanently enjoined the latter from disturbing the respondent's peaceful possession as tenant of said land.

Hence, the instant petition was filed, with the petitioner assigning the following errors as the issues raised to us:

I

The Court of Appeals (Fourth Division) committed clear and patent error in reversing the decision of the Regional Trial Court which is fully supported not only by substantial evidence but by overwhelming evidence.

II

The Court of Appeals committed clear and reversible error and grave abuse of discretion in declaring that "the relationship between plaintiff-appellant and defendant-appellee over the mango land in question as one of agricultural tenancy" despite the patent judicial admission of respondent Ignacio that he is merely a "magsisiga" of the mango land under litigation.

III

The Court of Appeals committed grave abuse of discretion in permanently enjoining petitioner "from disturbing plaintiff-appellant's peaceful possession as tenant of said land," although private respondent is not in physical possession of the land, respondent Ignacio being merely and admittedly a magsisiga" of the mango land in question.

IV

The Court of Appeals committed clear and patent error in not ordering the termination of any and all relationships between petitioner and private respondent, the latter having failed to perform the work of "magsisiga" on the subject parcel of land and instead he obstructs the driveway by scattering rubbish, dry leaves, dirt and other rubbish, preventing the petitioner from proceeding to the premises of the land by putting up a barb wire fence which are acts of harassment, disturbing the peaceful possession of petitioner and which acts are inimical to the continuation of any kind of relationship between Gregorio Castillo and Alberto Ignacio."

The issue to be resolved in the present petition is whether or not a tenancy relationship exists between the parties.

The Agricultural Tenancy Act defines "agricultural tenancy" as -

"x x x the physical possession by a person of a land devoted to agriculture belonging to or legally possessed by, another for the purpose of production through the labor of the former and of the members of his immediate farm household, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain, either in produce or in money, or in both." (Sec. 3, R.A. No. 1199; 50 O.G. 4655-56).

As held in the case of *Qua v. Court of Appeals* (198 SCRA 236 [1991]), the essential requisites of tenancy relationship are: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) the purpose is agricultural production; (4) there is consideration which consists of sharing the harvest; (5) there is consent to the tenant to work on the land and (6) there is personal cultivation by him.

From the foregoing definition, the petitioner insists that for a person to claim tenancy relationship, he must be an occupant or must be in physical possession of the agricultural land. He alleges that, Alberto Ignacio, being a mere smudger (magsisiga) of the mango land, no tenancy relationship can exist between them absent the element of physical possession.

In *Gagola v. Court of Agrarian Relations* (18 SCRA 992 [1966]), the Court held that a tenant has possession of the land only through personal cultivation. Thus, in the instant case, the key factor in ascertaining the existence of a landowner-tenant relationship is whether or not there is personal cultivation of the land by the private respondent.

The trial court noted that:

"Let alone or notwithstanding the use of the phrase "kasamang magsasaka" in the *Kasunduan* (Exhibit C) relied upon by the plaintiff, there is no dispute that the actual role ever played by the plaintiff vis-a-vis the land in litigation was that of a mere "magsisiga" (smudger). Stated differently, plaintiff has never performed on the property in question any of the acts of cultivation contemplated by the law as essential to the creation of an agricultural tenancy relationship. In fine, it is the sense of the Court that absent the important factor of cultivation, no tenancy relationship has ever existed between the plaintiff and the defendant over the property involved in the instant case. At most and at best, the contractual relationship between them was purely civil in nature consisting solely of the seasonal engagement of plaintiff's services as a "magsisiga" or "taga-suob."

On this matter, the respondent appellate court disagreed and noted instead that personal cultivation by respondent Ignacio of petitioner's land is clearly spelled out or admitted in the "*Kasunduan*" (Exhibit "C") in view of the aforementioned provision therein that nobody except petitioner and the members of his family could enter said land without said petitioner's written permission.

We agree with the trial court that the element of personal cultivation is absent. The main thrust of the petitioner's argument is that the respondent Court of Appeals is mandated by law to affirm the decision of the Regional Trial Court, acting as an Agrarian Court, if the findings of fact in said decision are supported by substantial evidence and the conclusions stated therein are not clearly against the law and jurisprudence. On the other hand, the private respondent contends that the findings of fact of the Court of Appeals are final and conclusive on the parties and on the Supreme Court.

After painstakingly going over the records of the petition, we find no strong and cogent reason which justifies the appellate court's deviation from the findings and conclusions of the trial court. As pointed in *Hernandez v. Intermediate Appellate Court* (189 SCRA 758 [1990]), in agrarian cases, all that is required is mere substantial evidence. Hence, the agrarian court's findings of fact which went beyond the minimum evidentiary support demanded by law, that is supported by substantial evidence, are final and conclusive and cannot be reversed by the appellate tribunal.

Moreover, and as significantly held in *Qua v. Court of Appeals* (supra), the fact that the source of livelihood of the private respondents is not derived from the lots they are allegedly tenancing is indicative of non-agricultural tenancy relationship.

Under the facts obtaining in the case, respondent Ignacio is a businessman by occupation and this is his principal source of income. He manufactures hollow blocks. He also has a piggery and poultry farm as well as a hardware store on the land adjoining the subject land. To add to that, the respondent farms the riceland of one Dr. Luis Santos. It is thus evident that the working hours of the respondent as a businessman and his other activities do not permit him to undertake the work and obligations of a real tenant. This is further supported by the undisputed fact that the respondent cannot even personally perform the work of a smudger because on October 22, 1986, the

respondent hired some 20 people who are not members of his family to cut and burn the grass in the premises of the subject land.

Anent the element of consent, the petitioner contends that the best evidence and imperishable proof of the relationship of the parties is that shown in the complaint filed by private respondent with the barangay captain Tomas Mercado that he is a mere "magsisiga" of the mango trees on the subject parcel of land. On the other hand, the respondent appellate court said that the best proof of the existence of tenancy relationship is the "Kasunduan" (Exhibit "C") and that under Section 7, Rule 130 of the Revised Rules of Court, 'when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself,' subject only to certain exceptions. Inasmuch as substantial evidence does not only require the presence of a mere scintilla of evidence (*Berenguer, Jr. v. CA*, 164 SCRA 433 [1988] citing *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 [1940]), we rule that there is no concrete evidence on record sufficient to establish that the element of consent is present. But even assuming *arguendo* that the element of consent is present, we declared in *De los Reyes v. Espineli* (30 SCRA 574 [1969]) that absent the element of personal cultivation, one cannot be a tenant even if he is so designated in the written agreement of the parties.

With respect to the requisite of sharing the harvests, the respondent appellate court considered the receipt (Exhibit "E") signed by the petitioner's son Walderado Castillo as its evidence. On this point, the petitioner has correctly argued that the receipt is inadmissible on the ground that he did not participate in its execution.

The maxim "*res inter alios acta altere nocere non debet*," found in Section 28, Rule 130, Rules of Court applies, for as stated in *Gevero v. Intermediate Appellate Court* (189 SCRA 201 [1990]) the right of a party cannot be prejudiced by an act, declaration, or omission of another.

Also *in pari materia* is *Caballes v. Department of Agrarian Reform* (168 SCRA 247 [1988]), that the fact of sharing alone is not sufficient to establish a tenancy relationship. Well-settled, is the rule that all the requisites must concur in order to create a tenancy relationship between the parties and the absence of one or more requisites do not make the alleged tenant a *de facto* tenant as contradistinguished from a *de jure* tenant. This is so because unless a person has established his status as a *de jure* tenant, he is not entitled to security of tenure nor is he covered by the Land Reform Program of the Government under existing tenancy laws. (*Qua v. Court of Appeals*, *supra* citing *Tiongson v. Court of Appeals*, 130 SCRA 482 [1984]).

However, with respect to the award of attorney's fees by the trial court, the award of P10,000.00 is unwarranted since the action appears to have been filed in good faith. There should be no penalty on the right to litigate. (*Ilocos Norte Electric Company v. Court of Appeals*, 179 SCRA 5 [1989] citing *Espiritu v. Court of Appeals*, 137 SCRA 50 [1985])

WHEREFORE, the petition is GRANTED. The decision of the respondent Court of Appeals is hereby REVERSED and SET ASIDE and the decision of the Regional Trial Court is REINSTATED with the MODIFICATION that the award of attorney's fees is DELETED.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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